Human Events *A Weekly Analysis for the American Citizen*
Editorial Office 1710 Rhode Island Ave., N. W., WASHINGTON 6, D. C. *Telephone* NATIONAL 2066
VOL. VI, NO. 17, *Issue Number* 274, APRIL 27, 1949 ★ *Editors:* FELIX MORLEY & FRANK C. HANIGHEN

UNIVERSITY OF MINNESOTA RECEIVED MAY 3 1949 LIBRARY

OUR CONFISCATION OF PRIVATE PROPERTY

by an International Lawyer

The Truman Administration, as a part of what the President in his Inaugural Address called a "bold new program", is seeking to encourage foreign investment by American citizens. In the current ECA authorization, as passed by Congress, a large sum is actually earmarked to "guarantee" private American capital which ventures overseas.

Before Americans put any trust in these assurances they should familiarize themselves with the policy of confiscation of foreign private property which the United States has adopted since the close of World War II. Any American who proposes to invest money in France, for instance, should recognize in advance that if Soviet Russia takes over in that country his entire investment could be confiscated in accordance with principles now formally endorsed by the United States.

Reversing its historic position with regard to property rights, the United States now apparently maintains that mere military victory justifies any form of confiscation which seems appropriate to the victorious government. Having thus sanctified the primitive principle of force majeure, it is easy to understand why the Administration must offer "guarantees" if it is to lure American capital abroad. But no "guarantee" approved by Congress is likely to balance the outright sanction for confiscation which our own government has now established.

The reversal of traditional principle is the work of President Truman's Administration. This particular policy of confiscation was not advocated by the New Deal. On the contrary, Secretary Hull, on the eve of World War II, opposed confiscation in the following strong language:

> "It is important . . . that the United States should not depart in any degree from its traditional attitude with respect to the sanctity of private property within our territory, whether such property belongs to nationals of former enemy powers or to those of friendly powers. A . . . taking over of such property, except for a public purpose and coupled with the assumption of liability to make just compensation, would be fraught with disastrous results."

Everybody knows that since the close of the war we have officially confiscated much in the conquered nations themselves. But the story of our seizure of private German property invested in neutral Switzerland

Copyright 1949 by HUMAN EVENTS, INC.

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

is little known over here. It may profitably be considered by anybody who thinks that he can safely invest his savings in Latin-America, or any other part of the world which might be neutral in another war.

II

An agreement that violated international law, by confiscating private property invested in neutral territory, was forced upon Switzerland three years ago. The strongest sort of pressure had to be applied to the Swiss before they would succumb to the hectoring demands of the governments of the United States, Great Britain and France, acting in concert, but under American leadership.

The leverage exerted on the Swiss approximated blackmail. Swiss assets in the United States were "blocked" and Swiss traders were blacklisted by our government until the "Accord and Annex" was signed in Washington by Swiss Foreign Minister Walter Stucki, on May 25, 1946. Our government gave little publicity to this disgraceful business. But Americans who visit Switzerland soon learn that this "Accord" planted a new and unflattering conception of American morality over there.

"The agreement as achieved", to quote the Department of State Bulletin of June 30, 1946 (p. 1101), "attained the Allied objective of immobilizing and liquidating German property in Switzerland owned by Germans in Germany. . . . Thus, German assets which at some future date could have been employed as a threat to world peace will be removed from a potential safe-haven." Communist governments, also at some future date, may have a lot of fun with that official statement of U.S. policy. Certainly it pays the Communist practice of expropriation the most sincere form of flattery.

In the forced liquidation of German private property in Switzerland, only persons of non-German nationality have been allowed to acquire new ownership. The Annex to the agreement further says that "all possible measures will be taken to prevent resales to German persons". No time limit is placed on this penalization of Germans as such -- another helpful precedent if the Kremlin wants to liquidate evidences of "Anglo-American imperialism" in China or other Communist territory.

It should be clearly understood that the Truman policy of confiscation in Switzerland applies to all Germans, those who were executed because they fought the Nazis as well as those who actually served the Nazi government. A statement prepared deep within the labyrinth of our Federal bureaucracy makes this plain.

According to "the Division of Economic Security Controls of the Office of Economic Security Policy of the Department of State" the confiscation does not include property looted by the Nazis, "since the Government of Switzerland had long prior to this understanding offered to

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

aid in restoring such property to rightful owners". Nor does this particular confiscation apply to German government property in Switzerland. It was purely private personal property, like summer cottages, bank accounts and investments of German nationals in Swiss industry, that the governments of the United States, Great Britain and France confiscated.

III

A lot of pressure was needed to force the reluctant Swiss into this particular application of Mr. Truman's "fair deal". As our Department of State itself admits: "The Swiss argued against recognition of the Allied legal claim to such [personal, private] property."

The Swiss Government properly insisted that if German private property were confiscated on Swiss soil, indemnification would have to be made to the owners by Switzerland. The Agreement of May 25, 1946, eventually recognized the justice of this argument -- in theory. Half of the proceeds of the forced liquidation of German private property in Switzerland was allotted to the Swiss Government, partly to cover the administrative costs of the sorry undertaking and partly to give the German owners some indemnification.

That this indemnification has in fact been satirical is clear on the face of the evidence. Less than half of the funds available from forced sales was even allocated for purposes of compensation. And the agreement further provided that any compensation should be paid by the Swiss Government under Allied supervision, in German money.

This mockery of civilized practice is one of the most distasteful parts of the whole agreement. In order to conceal the raw outrage of confiscation the Swiss Government was allowed to pay some compensation -- provided that it did so in worthless currency.

The legal case for this confiscation of private German assets in Switzerland was based on "the exercise of supreme authority within Germany" by the Allied governments, following the German capitulation. Dr. F. A. Mann, writing in the British Year Book of International Law (1946) detects the flaw in the argument that the Allies were merely exercising "the functions of a German government". He says:

> "There cannot be any doubt that German municipal legislation confiscating German property in Switzerland would have been held by Swiss courts to be opposed to Swiss public order and would, consequently, not have been recognized. Nor can there be any doubt that no established rule of international law would have justified Germany in demanding recognition for her confiscatory legislation. The principle of the territorial character of confiscation was until recently too firmly established to be questioned."

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

In the opinion of Swiss jurists, the illegal agreement forced upon that country was a clear violation of Swiss neutrality. The American argument was that the question of neutrality did not arise, because the war with Germany had been over for more than a year when the agreement was signed, on May 25, 1946.

IV

Nevertheless, steps incident to a war -- like this confiscation of private German property in a neutral country -- must be regarded as a part of the war activity. And that view was adopted by the Supreme Court of the United States, in the case of Ludecke v. Watkins, on June 21, 1948 -- more than two years after the Truman Administration acted on a contrary assumption in regard to Switzerland. The plain fact is that the Administration has been playing both ends against the middle, acting as though this country were either at war or at peace, according to which viewpoint seems momentarily advantageous to our officials.

We can scarcely have it both ways. If we were at war with Germany when German assets in Switzerland were confiscated, then Swiss neutrality was violated by our pressure to achieve that end. If we were at peace with Germany, then this enforced confiscation of private assets was sheer robbery, as disgraceful as any similar action by Soviet Russia.

The passage of time is serving only to strengthen the misgivings of American lawyers who realize that the agreement forced upon Switzerland, and the subsequent War Claims Act of 1948, are inimical to every long-range American interest, to say nothing of their incompatibility with international law as traditionally preached by American jurists.

In the Virginia Law Review, for last November, Vernon L. Bounds points out that "the foreign investments of our nationals total into the billions". Since that was written President Truman has begun to argue that private, as well as State, investment overseas should be fostered, with governmental "guarantees".

How can there be either respect for or confidence in a government which at one moment acts to confiscate private property in neutral countries, yet immediately thereafter speaks of "guarantees" to those who invest their savings overseas?

It is no wonder that the Soviet leaders find us difficult, when we simultaneously practice and revile Communistic theory. As the Virginia Law Review sums it up, with admirable restraint: "There is something anomalous in a public policy which at one and the same time attempts to champion capitalism and confiscation."

The author, thinking that this article should speak for itself, desires to remain anonymous.

Quotation up to a paragraph is permitted with credit to HUMAN EVENTS. For reproduction or more extensive quotation address requests to HUMAN EVENTS, 1710 Rhode Island Avenue, N. W., Washington 6, D. C. Trial subscription, three months for $3. Six months, $5.50. One year, $10. Two years, $18. Domestic airmail (including APO and FPO) one year, $12.00; foreign (regular mail) one year, $11. Foreign airmail rates on request. Please remit in U.S.A. DOLLARS. Allow two weeks for new subscriptions or change of address to become effective.

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Not Merely Gossip *A Supplement to* Human Events Vol. VI, No. 17

UNIVERSITY OF MINNESOTA MAY 3 1949 LIBRARY

By Frank C. Hanighen April 27, 1949

ACHESON: "The State Department", remarked Senator Bridges last Friday, "has a vested interest in its own mistakes." Bridges and others on Capitol Hill were aroused by an off-the-record speech Secretary Acheson had just made that day at a luncheon of the American Newspaper Editors Association. Such are the ways of Washington that within an hour of the Secretary's oh-so-confidential talk, a Senator who had attended the affair was giving us a detailed account. At a moment when Nanking and Shanghai were falling, the gallant Secretary was blaming Chiang Kai-shek and the Nationalist Government for the debacle of China and with a straight face was asserting that the U.S. Government had done everything in its power to prevent the present situation. Our Senatorial informant said he was shocked not only by the official mendacity but also at the spectacle of a U.S. Secretary of State bitterly assailing a friendly government and its head. Meanwhile, others who had broken bread with the Secretary were spreading the tale on the Hill, and hence the retort of Bridges, who went on to say that the newspaper editors should hear the other side of the China story. The Senator from New Hampshire doubtless knew that Senator McCarran plans to summon Acheson before the Appropriations sub-committee and Bridges, also on this body, will then have a chance to air his thoughts on China. It is believed that on that occasion Bridges will produce data showing that the U.S. failed to give any important military aid to Chiang in his struggle with the Communists.

This business of "off-the-record" speeches, and hush-hush attempts to manipulate public opinion has been increasing lately. It is noticeable that Acheson did not reserve his remarks for the Association of Washing-machinery Manufacturers, but for men who are in a position to shape public opinion in every corner of the land. However, if manufacturers or any other group had seemed useful, the State Department would have had no compunction about seeking their services. Some months ago the leaders of a national social and civic organization, meeting in Washington, told us how they nearly "fell for" the State Department game. They were invited to the Department and given an impressive "behind-closed-doors" talk, in which it was suggested that the organization might perform a patriotic duty. The duty, it appeared, was to pass a resolution which could only have a very serious effect on U.S. relations with a foreign Power. The civic leaders went back to the hotel, took off their coats and thought it over. They concluded that it wasn't their duty to launch such balloons and that the State Department had better be open and honest with the people. But there are other civic organizations which have walked into the trap, and we have no doubt that this charming custom will continue.

* * * * *

COMMODITY CREDIT CORPORATION: It may well be that the days of great and gaudy political scandals in this country have gone forever. Virtual one-party government over a long period of years and a press too fastidious to muckrake scarcely provide a favorable environment. The Benny Myers affair was small stuff and there is a lingering suspicion that the investigators stopped short when they flaired really big game. However, hopes of such as ourselves -- raised in the roaring days of Lincoln Steffens -- revive eternally, and so we find the activities of Senator Williams of Delaware very stimulating. This Senator has brought up a small matter of about $350 million which somehow or other has been lost on the books of the Commodity Credit Corporation. The figure, incidentally, is approximately ten times as large as the "consideration" which Secretary of the Interior Albert Fall once received for his ambitious oil ventures and which sent the press into continuous banners for

Copyright 1949 by Human Events, Inc.

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

several years back in the candid Twenties. Today, Williams' exposure has produced hardly a ripple in the newsprint. There have been rumors about this CCC matter for some months on Capitol Hill. And since the Delaware Senator put it in the Congressional Record, the cloakrooms of the Senate have heard murky gossip about evidence which includes recordings of inter-office conversations, secret documents, etc. Whether these rumors are true or not, the nature of the charges Williams has made in public deserve more notice than they have received.

On March 25, the Delaware Senator introduced a resolution calling for an immediate audit by the Senate of the books of the CCC and an immediate report thereon. Mr. Williams said, "It has been reported to me from sources which I consider reliable that over $350,000,000 of receivables in the general commodities purchase program could not be supported or verified . . ." and he went on to reveal that the General Accounting Office had been unable for the past few years to complete an audit of CCC. Majority Leader Lucas said "I have never heard such serious charges made against any agency of the Government." Lucas produced a letter of "explanation" from Secretary of Agriculture Brannan which, as we read it, simply said that the shortage dated back to the years 1943-45, and that that was a long time ago. The Williams resolution now is before the Committee on Expenditures, on which there sit six Republicans and seven Democrats (several of whom are from the South). Will the working coalition go to work on this extraordinary piece of business?

* * * * *

CAPITOL HILL: And is the working coalition still a fact? On a spring day stroll through Congressional corridors last week we found no evidence that the hybrid of Southern Democracy and Northern Republicanism is a premature bloom, although New Deal columnists persist in saying it is. Talking with members of various shades of opinion, we gathered that there was no change. This week many House members have returned after an Easter vacation in their constituencies and the fight over Labor legislation may prove a decisive test of solidity of the coalition.

As a matter of fact, Members of Congress seem more interested in watching developments in the economic field, rather than in the protests of Labor union leaders. We talked with a staff expert of a prominent House Committee who has been in on the drafting of the new and more liberal Displaced Persons bill (incidentally another big point in the Truman program of promises). He remarked, "Every week that goes by will deduct about 50,000 D.P.'s from the goal of this bill. With a recession and mounting unemployment, I take a pretty dim view of the chances of this sort of legislation." These technicians, incidentally, are unsung heroes of the Hill. We chatted with one veteran of a million clauses, who told us that he had spent six weeks, night and day, last session drafting the Mundt-Nixon bill for control of subversive organizations. And yet one hears talk of a "do nothing" Congress!

Encountering Senator Ellender of Louisiana in a corridor of that polite and exclusive club, the Senate, we were moved to ask him how young Huey Long, his colleague, is doing. Recalling the bad legislative manners of Huey the Elder, we wanted to know about the deportment of Long fils. Has he made a speech? "Yes", replied Ellender with a twinkle in his eye. "He has made one -- against civil rights legislation." Apparently, young Huey has become a well-behaved member of that even more exclusive club-within-a-club, the Southern bloc.

* * * * *

BRANNAN PLAN: Critics have employed poor tactics in dealing with the latest economic monkeyshine of the Fair Deal -- the Brannan Plan for subsidizing farmers and letting the prices of farm products drop for the benefit of consumers. Opponents have brusquely asked, "what will it cost?" forgetting that people have long been

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

schooled to consider a balanced budget with the utmost contempt. A better approach would be, "how will it work?" Whenever a bureaucrat produces some "bold, new" scheme which interferes with the free market, he does not mention the economic repercussions. We are happy to find the Baltimore Sun pointing out that "the social reformers are apt to suppose that when you reform one element in the social complex all the other elements will remain as they were".

In an editorial on April 24, the Sun suggests that the Brannan Plan might have some results not charted on the blueprints. For instance, while the farmer is guaranteed high prices by subsidies, there is no assurance that the middleman will operate precisely as if there were no such scheme. "Would the guarantee not tempt these middlemen to bid low for farm products? Would these middlemen not constantly suggest to farmers that they charge low prices in the market and demand bigger subsidies from the government? Would not city consumers enter into this good-natured conspiracy against the Treasury? Would not they too urge farmers to accept a continually lower price to be evened out by a continually higher subsidy?"

The Sun goes further with its exploration: "Would not the Agriculture Department, already deeply tangled in the policing of farm production, have to branch out through all the channels of food distribution to police them too?" The Sun logically projects a future of tighter and tighter policing, ad infinitum. Perhaps that is what our bureaucrats privately want. But they should be publicly asked the $64 questions posed by the Sun: "Have they (the Administration spokesmen) conceded that in abandoning the discipline of the old market, they must reimpose new disciplines by Government order? Are they sure the new Government disciplines will be easier or more efficient than the old?"

* * * * *

NUREMBERG: In a week marked by a Congressional examination of the Malmedy trials, it is worth recalling that over a year ago our Mr. Lalley reviewed Epitaph on Nuremberg, by Montgomery Belgion, published in London in 1947. Belgion's essay at that time constituted the first real assault in book form on the legal and moral bases of the extraordinary business of the War Crime tribunals. Since then, Mr. Henry Regnery, a young and courageous American publisher has persuaded Mr. Belgion to expand his argument and material. The result is Victor's Justice (Henry Regnery Company, Hinsdale, Ill. 187 pages. $2.75). And the result has also been that the choir of cowardly book reviewers have not even mentioned this timely and valuable study. Mr. Belgion is an erudite Englishman, but besides marshalling facts and distributing citations he is capable of the following ferocious summation.

"The victors", says Belgion, "were simply a coalition of States that went through the motions of legislating for and judging the governments and leaders of another State like themselves. Their legal and moral status was no more than that of a gang of lynchers dealing with a victim. They were able to do what they did as lynchers are able to lynch. That is to say, they were the stronger. Their only sanction was force; and although law needs force in order to ensure its respect, it is in no sense identical with force. At Nuremberg, the victors were but John Bull, Jonathan, Alphonse, and Uncle Bruin masquerading as the Ku Klux Klan."

Are these unduly harsh words? Well, let us look at a picture of the gentle ministrations of the Allied prosecution in Germany. Judge Edward L. Van Roden from Pennsylvania served in 1948 on an extraordinary commission, appointed by Secretary Royall, charged with investigating Allied military justice in Germany. In the Congressional Record, March 10, the Judge is quoted as saying: "All but two of the Germans in the 139 cases we investigated had been kicked in the testicles beyond repair. This was standard operating procedure with American investigators."

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Book Events

Parnell to Pearse: Some Recollections and Reflections, by John J. Horgan. Dublin: Brown and Nolan, Ltd., 15 shillings. Reviewed by J. M. Lalley.

Mr. Horgan is a well-known lawyer of Cork whose life has been intimately associated with the affairs and personages of the once powerful Irish Nationalist Parliamentary Party. These memoirs begin with the party schism over the affair of Parnell and Mrs. O'Shea, which occurred in Mr. Horgan's childhood, but they deal principally with the healing of the breach under the leadership of John Redmond, the domestic difficulties between Redmond's followers and such recalcitrant demagogues as Timothy Healy and William O'Brien, the long struggle for the Home Rule Bill, the crisis that followed the armed opposition of the Ulster Unionists, the organization of the Nationalist volunteers, the Easter Rising of 1916 and the savage reprisals by the British courts-martial, the Conscription Bill, and the gradual eclipse of the parliamentary party by the movement known as Sinn Fein. All the Irish political names famous in this period, as well as many other names then obscure but presently to engage the attention of the world, appear in Mr. Horgan's anecdotes.

The political history of Ireland in the first two decades of the Twentieth Century has had far less attention than its literary history, yet the relation of Irish politics to the great and calamitous events of our epoch is much closer than is commonly recognized. For one example, the Home Rule crisis in the spring and summer of 1914, and the wholesale resignations of British army officers, encouraged the foreign ministries of the Central Powers to believe that Great Britain, thus threatened by civil war, could not fulfill her implied obligations to France and Belgium, and so helped to precipitate the catastrophic events of July and August. For another thing, the character of the struggle waged by Sinn Fein against the British military, the Peelers, and the Black-and-Tan auxiliaries established a pattern for those national resistance movements which have had so great an influence on Twentieth Century political evolution. Mr. Horgan, to be sure, is less concerned with the broader implications of events than with personalities and conflicts among various nationalist groups. Like his father, he appears to have been personally more concerned with the local than with the parliamentary activities of the party; he never stood for election, though it appears he might have done so on various occassions had he chosen. In 1914 he succeeded his father as County Coroner; and it was he who one year later, at a famous inquest at Kinsale over some bodies from the Lusitania, directed a jury to return a verdict of "wilful and deliberate murder" against "the Emperor and Government of Germany". For like most of the parliamentary party, despite its disappointments, Mr. Horgan was an ardent supporter of the British war cause, and was so again after 1939.

Yet it was certainly none but the British, who by their stupid vengeances in 1916, destroyed the parliamentary party and with it all hope of a settlement of the Irish question within the frame of the British Constitution. The Easter insurrection was entirely the work of a tiny group of Fenians and the Citizen's Army of Dublin workmen led by James Connolly. Even Sinn Fein, the party of Arthur Griffith, had opposed a resort to violence, and the marriage of the Fenians and Sinn Feiners did not come about until popular feeling, previously hostile to the one group and apathetic to the other, had been outraged by the wholesale executions. Even so, it was, Mr. Horgan observes, an unnatural alliance, as was soon proved in the ferocious civil war that followed the treaty of 1921. In that cruel conflict, as in all the subsequent history of his country, and the still vexed and malignant problem of the six Ulster counties, Mr. Horgan perceives a melancholy vindication of the policies and purposes of his friend and hero, John Redmond.

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED